

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

TWO-DAY BOARD MEETING - SEPTEMBER 8-9, 1999

FULL BOARD MEETING MINUTES

SEPTEMBER 8, 1999

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Ron Alvarado, Vice President
Richard Carpenter, Member
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The Board's Legislative Committee met with staff to discuss provisions in the Unit 12 tentative agreement opposed by the Board that provides for binding arbitration of adverse actions.
- B. A report by the State Auditor of the California Science Center personnel system has identified concerns with compliance with the civil service system. Board staff will follow-up with a review of the center.
- C. Board member William Elkins was confirmed by the California Senate.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation

- A. Connerly v. State Personnel Board, et al. - Several recent developments in this case now pending before the Court of Appeal.
1. The Real Parties in Interest (RPI's) have filed a petition with the California Supreme Court to have the case transferred to that Court on the grounds that the case involves "issues of imperative public importance" (Court Rule 27.5). The RPI's cite the "rampant confusion over the interpretation of the initiative's ban on 'preferential treatment'" and the need for the Court to determine the critical issue of the scope of Proposition 209: whether the initiative prohibits equal opportunity programs such as race-and-gender-conscious outreach and recruitment efforts, monitoring requirements and measure to remedy discriminatory selection processes. They cite the need for quick guidance for public agencies. They also discuss the Hi-Voltage case.
 2. We received a copy of a request for permission to file an amicus brief by "Attorneys for Amici Local Public Entities" to support the position of the real parties and the State Personnel Board. Both the City and County of Sacramento are listed as participants in this amicus request. They want to brief the issue of whether outreach programs discriminate and grant preferences in violation of Proposition 209 and whether the formulation of benchmarks and collection of data to monitor equal opportunity in public programs discriminate and grant preferences in violation of Proposition 209.
 3. The Commissioners of the United States Commission on Civil Rights has filed a request for amicus participation on behalf of the Real Parties in Interest.
 4. We also received a copy of an amicus letter from a law firm representing a number of pro-affirmative action groups supporting the petition for "transfer before decision" and for depublication of the appellate court decision in Hi-Voltage Wire Works, Inc. v. City of San Jose.

5. Hi-Voltage Wire Works, Inc. v. City of San Jose - The California Supreme Court has granted review in this case which found City of San Jose's program of outreach to minority and women subcontractors for public construction contracts violated Proposition 209.
- B. Farris v. State Personnel Board - The Superior Court has remanded this case to the Board for further clarification of some specific findings in the Board's most recent decision. The return is due October 12, 1999.
- C. ACSA v. Department of Personnel Administration (DPA), et al. - The respondents have requested further oral argument on the issue raised by the court: whether the provisions of the Memorandum of Understanding for Bargaining Unit 8 and the implementing legislation are unconstitutional in that they preclude the Board from carrying out its constitutional mandate "to review discipline." The court scheduled further argument for September 24, 1999. The Board is amicus in the case.
- D. State Personnel Board v. Department of Personnel Administration, et al. Case remains pending in Court of Appeal. Extension of time for filing opening brief has been granted by the court.

Other Matters

- A. The Memorandum of Understanding (MOU) for Unit 12 contains language similar to that contained in the MOU for Unit 8 providing for final and binding arbitration of disciplinary appeals of both major and minor actions. We have not yet seen language for implementing legislation. Possibly similar language for Unit 13.
- B. Request for Attorney General Opinion on the scope of authority of Cooperative Personnel Services as a joint powers entity to perform certain selection functions under contract with governmental entities. The Office of the Attorney General has asked for our input. We are working on a letter.
- C. Public Employees Retirement System (PERS) Board meeting - Judy Balmain and I attended a PERS Committee meeting that was called to explore the issue of differences in definitions of who is disabled for purposes of disability retirement, worker's compensation benefits, the Americans With Disabilities Act/Fair Employment and Housing Act, Civil Service Laws, etc. The Board members

present were briefed on the impact of inconsistent determinations of different agencies on the employer and the employee and on the impact of worker's compensation settlements. The group came up with some ideas as to how to better communicate with employees and employers as to their respective rights and obligations, and decided to go ahead with a task force to study these issues.

- D. Administrative Law Judge Quarterly Status Reports have been submitted.
- E. Commission of State Mandates - On August 26, 1999, Elizabeth Stein of the State Personnel Board (SPB) Legal Division attended a Commission hearing on a test claim regarding whether certain provisions of the Peace Officer's Bill of Rights (POBOR) created reimbursable state mandates. The Department of Finance had requested SPB attendance to assist in answering questions regarding the extent to which POBOR went beyond due process already accorded public employees.

4. NEW BUSINESS

- A. Correspondence from the Department of General Services was referred to the Executive Officer for a response.

5. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. The Governor signed SB 1073 (Ortiz) - This was the Board sponsored omnibus bill. Chapter 99-310.
- B. Staff is in the process of developing the Board's proposed legislative agenda.
- C. Board staff is finalizing Enrolled Bill Reports to be submitted to the Governor for action.

The Board voted on the following legislation:

- A. SB 401 (Karnette) - This bill implements the MOU bargained between the State and several bargaining units. The Board is concerned with the section that addresses adjudication of disciplinary issues. Oppose that section of the legislation.
VOTE: Bos, Carpenter, Alvarado, Harrigan - Aye.

6. ORAL ARGUMENT

Oral argument in the matter of GREGORY PAPPAS, CASE NO. 98-1361. Appeal from dismissal. Department of California Highway Patrol.

Persons Participating:

Richard J. Romanski, Attorney at Law, representing appellant
Jacob A. Appelsmith, Deputy Attorney General, Department of
Justice, representing California Highway Patrol
Jason Heath, Deputy Attorney General, Department of Justice,
representing California Highway Patrol

ACTION: Submitted

7. ORAL ARGUMENT

Oral argument in the matter of JOHN W. CONES, CASE NO. 98-3003. Appeal from dismissal. Department of Corrections.

Persons Participating:

Chris Uyemura, Senior Hearing Representative, California
Correctional Peace Officers Association, representing
appellant
Edwin T. (Tim) Shea, Staff Counsel, Department of Corrections,
representing Department

ACTION: Submitted

8. ORAL ARGUMENT

Oral argument in the matter of PAMELA A. KING, CASE NO. 98-1586. Appeal from dismissal. Department of the Youth Authority.

Persons Participating:

Ina Arnold, Senior Hearing Representative, California
Correctional Peace Officers Association, representing
appellant
Thomas W. Vallance, Legal Counsel, Department of Personnel
Administration, representing Department of the Youth
Authority
Pat Ostini, Chief Counsel, Department of the Youth Authority,
representing Department

ACTION: Submitted

9. ORAL ARGUMENT

Oral argument in the matter of TERRY D. KNOX, CASE NO. 98-2862. Appeal from dismissal. Department of Corrections.

Persons Participating:

Janusz Porembski, Attorney at Law, representing appellant
Barbara J. Carlile, Correctional Sergeant, Employee Relations
Office, Department of Corrections, representing Department
M. D. Thompson, Correctional Lieutenant, Employee Relations
Office, Department of Corrections, representing Department.

ACTION: Submitted

10. ORAL ARGUMENT

Oral argument in the matter of PAUL CRUZ, CASE NO. 98-2663.
Appeal from dismissal. Department of Corrections.

Persons Participating:

Nathan D. Schmidt, Staff Counsel, Department of Corrections,
representing Department

ACTION: Submitted

A D J O U R N M E N T

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
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CONCURRENT BOARD MEETING MINUTES

SEPTEMBER 9, 1999

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Ron Alvarado, Vice President
Richard Carpenter, Member
Sean Harrigan, Member

2. ORAL ARGUMENT

Oral argument in the matter JOHN D. YOUNG, CASE NO. 98-3996.
Appeal from dismissal. Department of Industrial Relations.

Persons Participating:

Dennis F. Moss, Attorney at Law, representing appellant
Vanessa L. Holton, Assistant Chief Counsel, Department of
Industrial Relations, representing Department

ACTION: Submitted

BOARD ACTIONS

3. STATE PERSONNEL BOARD SUMMARY MINUTES OF AUGUST 3, 1999

ACTION: Adopted on September 9, 1999.

VOTE: Bos, Alvarado, Carpenter, Harrigan - Aye.

4. ACTION ON SUBMITTED ITEMS

ACTION: (See pages 19-20)

5. ADMINISTRATIVE LAW JUDGE CASES

On September 9, 1999, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Harrigan - Aye.

VOTING on the Petitions for Rehearing for Raul B. Serrato, Case No. 99-0985, Harrigan - "No"; for Thomas Marshall, Case No. 98-1336, Carpenter - "Recused himself".

REJECT & REMAND

MICHAEL D. RAYMER, CASE NO. 98-5237

Appeal for back-pay

Department of Corrections

ACTION: Back-pay and Reinstatement Granted

CHIEF COUNSEL RESOLUTIONS

BORKOWSKI, CASE NO. 97-4373

Appeal from official reprimand

Public Utilities Commission

ACTION: Appellant's Request for Order to Show Cause Denied

POWELL, CASE NO's. 97-3593 & 97-4571

Appeal from 5 percent reduction in pay for 12 months

Department of Motor Vehicles

ACTION: Appellant's Request for Order to Show Cause Denied

PROPOSED DECISIONS

HARRIMAN POPICK, CASE NO. 99-1870

Appeal from 5 working days suspension

Department of Corrections

ACTION: Suspension Sustained

ROBERT ESQUIVEL, CASE NO. 99-1563

Appeal from 1 step reduction in salary for 6 months

Department of Corrections

ACTION: Reduction in Salary Sustained

QUINTA R. ADVANCE, CASE NO. 98-0816

Appeal from dismissal

Department of Developmental Services

ACTION: Dismissal Modified to 10 Days Suspension

WYIKIEEA LEWIS, CASE NO. 98-5181
Appeal from dismissal
Department of Mental Health
ACTION: Dismissal Sustained

RONALD HILBERG, CASE NO. 99-0449
Appeal from medical termination
Department of Corrections
ACTION: Medical Termination Revoked

RAMON RODRIGUEZ, CASE NO. 99-0966
Appeal from 5 percent reduction in Salary for 1 year
Department of Social Services
ACTION: Reduction in Salary Modified to Official Reprimand

KIMBERLY F. WILLIAMS-ROBINSON, CASE NO. 99-0856
Appeal from 60 days suspension
Department of Corrections
ACTION: Board Adopted Findings of Fact, but Modified 60
Days Suspension to 30 Days Suspension

IAN FITZPATRICK, CASE NO. 98-3018
Appeal from 5 percent reduction in Salary for 6 months
Department of Motor Vehicles
ACTION: Reduction in Salary Modified to Official Reprimand

MUSTAPHA RAHIM, CASE NO. 99-1387
Appeal from dismissal
Department of Motor Vehicles
ACTION: Dismissal Sustained

AUBREY WASHINGTON, CASE NO. 99-1191
Appeal from dismissal
Employment Development Department
ACTION: Dismissal Sustained

SHERRIE ENGLISH, CASE NO. 99-0989
Appeal from 6 months suspension
Department of Corrections
ACTION: Suspension Modified to 60 Calendar Days Suspension

SAMUEL ROY, CASE NO. 99-1196
Appeal from non-punitive termination
Department of Mental Health
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself

DANIELLE DOLPHIN, CASE NO. 98-0036
Appeal from dismissal
Department of Alcoholic Beverage Control
ACTION: Dismissal Revoked

BERLINDA A. GREEN, CASE NO. 99-1067
Appeal from dismissal
Department of Motor Vehicle
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself

DIDA DEARING, CASE NO. 99-1921
Appeal from 10 calendar days suspension
Department of corrections
ACTION: Suspension Sustained

SYLVIA C. SOLIS, CASE NO. 99-0574
Appeal from medical termination
Department of Motor Vehicles
ACTION: Not Acted Upon, to be Re-submitted 9/21/99

JACK CHERRY, CASE NO. 98-2112
Appeal from dismissal
Department of Corrections
ACTION: Dismissal Sustained

MICHAEL YEE, CASE NO. 99-0969
Appeal from 1-step reduction in Salary for 6 months
Department of Corrections
ACTION: Reduction in Salary Revoked

DANIEL SHOPE, CASE NO. 98-3313
For determination of back-pay upon reinstatement
Employment Development Department
ACTION: Back-pay Granted

RONNIE GIBBONS, CASE NOS. 99-0763 & 99-0757
Appeal from 5 working days suspension and
disciplinary reassignment
Department of California Highway patrol
ACTION: Suspension and Disciplinary Reassignment Sustained

LORENZO CASTANEROS, CASE NO. 98-4657
Discrimination complaint Selection/appointment
Department of Transportation
ACTION: Discrimination Complaint Denied

JOSE OSCAR LAVILLES, CASE NO. 98-4524
Appeal from dismissal
Department of Mental Health
ACTION: Dismissal Revoked

BARBARA HAHN, CASE NO. 98-3757
Appeal from rejection
Department of Education
ACTION: Rejection Affirmed and Appeal Denied

JORGE P. SANCHEZ, CASE NO. 99-1070
Appeal for determination of back salary
Department of Motor Vehicles
ACTION: Determined Overtime Pay Will Not be deducted from
Salary Award

DONNA POLK, CASE NO. 98-5010
Appeal from dismissal
Department of Developmental Services
ACTION: Dismissal Sustained

JAMES H. COOPER, CASE NO. 99-1090
Appeal from dismissal
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself

TRACEE TURNER, CASE NO. 99-0978
Appeal from 1-step reduction in Salary for 12 months
Department of Corrections
ACTION: Reduction in Salary Sustained

BEATRIZ R. CHAVEZ, CASE NO. 98-3100
Appeal from dismissal
Department of Motor Vehicles
ACTION: Dismissal Sustained

JUDY L. ARRUDA, CASE NO. 98-4798
Appeal from rejection
State Board of Equalization
ACTION: Rejection Affirmed and Appeal Denied

JOSEPH RUBANOWITZ, CASE NO. 98-5143
Appeal from non-punitive termination
Department of Corrections
ACTION: Non-punitive Termination Sustained

DONALD L. COX, CASE NO. 99-0010
Appeal from dismissal
Department of Toxic Substances Control
ACTION: Dismissal Sustained

ANNA M. ANDERSON, CASE NO. 99-0200
Appeal from demotion
State Board of Equalization
ACTION: Demotion Modified to Temporary Demotion for 8
Months

MARIA ESCOBEDO, CASE NO. 99-0432
Appeal from 45 calendar days suspension
Department of Corrections
ACTION: Board Adopted Findings of Fact, but modified 45
Calendar Days Suspension to Official Reprimand

RICHARD VAN ZANDT, CASE NO. 99-1190
Appeal from demotion
Department of Corrections
ACTION: Demotion Sustained

KENNETH CARTER, CASE NO. 99-1573
Appeal from 10 working days suspension
Department of Corrections
ACTION: Suspension Modified to Official Reprimand

BRIAN K. PALMER, CASE NO. 99-2023
Appeal from dismissal
Department of Corrections
ACTION: Dismissal Modified to 6 Months Suspension

ARBITRATION

RAY ARREDONDO, CASE NO. 99-2485
Appeal from 3 working days suspension
Department of California Highway Patrol
ACTION: Suspension Revoked

RAYMOND B. GOLDEN, JR., CASE NO. 99-2483
Appeal from 1 working day suspension
Department of California Highway Patrol
ACTION: Suspension Revoked

ROBERT LAGOMARISINO, CASE NO. 99-2482
Appeal from 3 working days suspension
Department of California Highway Patrol
ACTION: Suspension Sustained

CHRISTOPHER C. RHYNE, CASE NO. 99-2481
Appeal from 1-step reduction in salary for 5 months
Department of California Highway Patrol
ACTION: Suspension Sustained

CORBEN G. WHITNEY, CASE NO. 99-2482
Appeal from 2 working days suspension
Department of California Highway Patrol
ACTION: Suspension Sustained

PETITIONS FOR REHEARING

KIMBERLY T. AKIYAMA, CASE NO. 98-2668
Appeal from dismissal
Department of Motor Vehicles
ACTION: Petition for Rehearing Filed by Appellant Denied

LORA BETRON CAMPOS, CASE NO. 99-1318
Appeal from rejection
Department of Corrections
ACTION: Petition for Rehearing Filed by Appellant Denied

ROBERT S. CRAIG, case no. 99-0812
Appeal from 5 working days suspension
Department of Corrections
ACTION: Petition for Rehearing Filed by Respondent Denied

DIANNA LOUISE KENNEDY, CASE NO. 98-3188
Appeal from dismissal
Department of Motor Vehicles
ACTION: Petition for Rehearing Filed by Appellant Granted
and Remanded to Administrative Law Judge for Further
Findings

REWANDA PLEASANT-BROWN, CASE NO. 99-0312
Appeal from rejection
State Board of Equalization
ACTION: Petition for Rehearing Filed by Appellant Denied

VICTOR PLATERO, CASE NO. 98-3584
Appeal from dismissal
Department of Corrections
ACTION: Petition for Rehearing Filed by Respondent Denied

RAUL B. SERRATO, CASE NO. 99-0985
Appeal from 2-Step Reduction in Salary for 5 Months
Employment Development Department
ACTION: Petition for Rehearing Filed Appellant Denied

STANLEY TAYLOR, CASE NO. 98-2438
Appeal from dismissal
Department of Water Resources
ACTION: Petition for Rehearing Filed by Respondent Denied

MICHAEL F. BRITT, CASE NO. 98-0899
Appeal from rejection
Department of Housing and Community Development
ACTION: Petition for Rehearing Filed by Appellant Denied

MALINDA K. CLICK, CASE NO. 98-3747
Appeal from dismissal
Department of Corrections
ACTION: Petition for Rehearing Filed by Respondent Denied

NICHOLAS LEON, CASE NO. 98-3392
Appeal from 40 calendar days suspension
Department of Corrections
ACTION: Petition for Rehearing Filed by Appellant Granted

THOMAS MARSHALL, CASE NO. 98-1336
Appeal from non-renewal of employment
California Polytechnic University, Pomona
ACTION: Petition for Rehearing Filed by Appellant Denied

JAIME PARDO, CASE NO. 98-3498
Appeal from dismissal
Department of Corrections
ACTION: Petition for Rehearing Filed by Respondent Denied

JOHN F. PAUL, CASE NO. 98-3481
Appeal from 90 calendar days suspension
Department of Education
ACTION: Petition for Rehearing Filed by Appellant Denied

JUSTIN STAHL, CASE NO. 98-2459
Appeal from dismissal
Department of Corrections
ACTION: Petition for Rehearing Filed by Appellant Denied

ROBERT H. DAYTZ, CASE NO. 99-0193
Appeal from rejection
ACTION: Petition for Rehearing Filed by Appellant Denied

CHARLES YOUNGLOVE, CASE NO. 97-3901
Appeal from demotion
Department of Insurance
ACTION: Petition for Rehearing Filed by Appellant Granted

FRANK DURANTE, CASE NO. 96-0689
Appeal from rejection
ACTION: Petition for Rehearing Filed by Appellant Denied

GARY S. GARFINKLE, CASE NO. 98-3128
Appeal from dismissal
Department of Justice
ACTION: Petition for Rehearing Filed by Respondent Denied

6. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: (See pages 21-23)

7. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments,
Rule 211 Appeals, Petitions for Rehearing)
On September 9, 1999, the Board adopted the following
decisions presented by Linda Brooks, Assistant Executive
Officer, California State Personnel Board.
VOTE: Bos, Alvarado, Carpenter, Harrigan - Aye.

WITHHOLD CASES

- A. WITHDRAWN
- B. NORMA A. CHAVEZ, Case No. 98-2746
Classification: Correctional Officer
ACTION: GRANTED
- C. ANDREW THOMAS JONES, Case No. 98-4230
Classification: Correctional Officer
ACTION: GRANTED
- D. DANIEL MARGARIS, Case No. 98-4239
Classification: Cadet, California Highway Patrol
ACTION: GRANTED
- E. WITHDRAWN
- F. THOMASA AMAYA, Case No. 99-1647
Classification: Correctional Officer
ACTION: DENIED
- G. STANLEY A. BECKHAM, Case No. 99-2454
Classification: Correctional Officer
ACTION: DENIED
- H. TERRY A. BRUCE, Case No. 99-1077
Classification: Correctional Officer
ACTION: DENIED
- I. KIM BRYANT, Case No. 99-1302
Classification: Youth Correctional Officer
ACTION: DENIED
- J. GEORGE A. CARRILLO, Case No. 99-2184
Classification: Correctional Officer
ACTION: DENIED
- K. CATHERINE LYNN CELLINI, Case No. 99-2453
Classification: Licensing - Registration Examiner
(LRE)
ACTION DENIED
- L. REYNALDO M. CHAVEZ, Case No. 99-2176
Classification: Correctional Officer
ACTION: DENIED
- M. DAVID ELIAS, Case No. 99-2178
Classification: Correctional Officer
ACTION: DENIED
- N. MICHELE FANT (EASTER), Case No. 99-1453

- Classification: Youth Correctional Officer
ACTION DENIED
- O. TERESA FOLEY, Case No. 99-0527
Classification: Correctional Officer
ACTION: DENIED
- P. MANUEL M. GAMEZ, Case No. 99-0957
Classification: Correctional Officer
ACTION: DENIED
- Q. ERIC M. GARZA, Case No. 99-1506
Classification: Correctional Officer
ACTION: DENIED
- R. DONNA W. GORDON, Case No. 99-0141
Classification: Medical Technical Assistant
ACTION: DENIED
- S. LAZARO PASCUAL GORTE, Case No. 99-2447
Classification: Correctional Officer
ACTION: DENIED
- T. GILBERTO HERNANDEZ, Case No. 99-2194
Classification: Cadet, CHP
ACTION: DENIED
- U. SCOTT HIRSCH, Case No. 99-0994
Classification: Correctional Officer
ACTION: DENIED
- V. CLYDE HULLQUIST, Case No. 99-0993
Classification: Hospital Peace Officer I
ACTION: DENIED
- W. ERIC HUMPHREYS, Case No. 99-0221
Classification: Correctional Officer
ACTION: DENIED
- X. ALBERT L. JACQUEZ, Case No. 99-1709
Classification: Correctional Officer
ACTION: DENIED
- Y. JAMIE LOPEZ, Case No. 99-1761
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- Z. CASEY IEU MALAUULU, Case No. 99-1759
Classification: Correctional Officer
ACTION: DENIED
- AA. MICHAEL E. PEGOS, Case No. 99-1286
Classification: Correctional Officer

ACTION: DENIED

- BB. LUIS MANUEL PONCE, Case No. 99-2177
Classification: Correctional Officer
ACTION: DENIED
- CC. JORGE Q. RODRIGUEZ, Case No. 99-2180
Classification: Correctional Officer
ACTION: DENIED
- DD. ROBERT RODRIQUEZ, Case No. 99-0500
Classification: Correctional Officer
ACTION: DENIED
- EE. JONATHAN SPRING, Case No. 99-2179
Classification: Correctional Officer
ACTION: DENIED
- FF. JUAN LUIS TAPIA, Case No. 99-2174
Classification: Correctional Officer
ACTION: DENIED
- GG. MARCIA DELISE TAYLOR-JONES, Case No. 99-2181
Classification: Correctional Officer
ACTION: DENIED
- HH. DWIGHT THOMAS, Case No. 99-2452
Classification: Correctional Officer
ACTION: DENIED
- II. SHEILA M. TOPPING, Case No. 99-0220
Classification: Correctional Officer
ACTION: DENIED
- JJ. ANNETTE M. WILLIAMS, Case No. 99-1758
Classification: Medical Technical Assistant
ACTION: DENIED
- KK. GUADALUPE THOMAS, Case No. 98-4630
Classification: Structural Steel Painter Superintendent
ACTION: DENIED
- LL. Jon Gilbert - Case No. 99-0139
Classification: Hospital Peace Officer I
ACTION: DENIED
- MM. WILLIAM GORDON, Case No. 99-0150
Classification: Associate Governmental Program Analyst
ACTION: GRANTED
- NN. Jason Johnson - No. 99-0136
Classification: Correctional Officer
ACTION: DENIED

DISMISSAL CASES

- * SHOUNG M. GARNER, Case No. 99-2175
Classification: Correctional Officer
Action: DISMISS - No timely response to SPB request for information.
- * ALEX GONZALEZ, Case No. 99-2186
Classification: Correctional Officer
Action: DISMISS - No timely response to SPB request for information.
- * KIM LOUIS HUDD, Case No. 99-2457
Classification: Correctional Officer
ACTION: DISMISSED - No timely response to SPB request for information.
- * MONTY I. HUNTSMAN, Case No. 99-1760
Classification: Correctional Officer
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.
- * MARIE A. PEREZ, Case No. 99-2189
Classification: Cadet, California Highway Patrol
ACTION: DISMISSED - No timely response to SPB request for information.
- * GEORGE SOLIS, Case No. 99-0823
Classification: Cadet, California Highway Patrol
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.
- * STEPHEN ANDRADE, Case No. 99-2448
Classification: Correctional Officer
Action: DISMISSED - Appellant withdrew appeal.

8. MEDICAL APPEALS

On September 9, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Harrigan - Aye.

- A. DESIREE ARREOLA, Case No. 98-2932
Classification: Employment Program Representative
ACTION: DENIED
- B. AMANDA GORMAN, Case No. 98-4699
Classification: Correctional Officer
ACTION: DENIED

- C. RICHARD JONES, Case No. 99-0948
Classification: Youth Correctional Counselor
ACTION: DISMISSED
- D. ERICA JUBB, Case No. 98-3305
Classification: Correctional Officer
ACTION: DENIED
- E. SAMMY P. OSUNA, Case No. 99-0536
Classification: Youth Correctional Counselor
ACTION: DISMISSED
- F. MICHAEL POLITANO, Case No. 98-3004
Classification: Cadet, California Highway Patrol
ACTION: DENIED

DISMISSAL CASES

- * MARIA CHAVEZ, Case No. 98-1857
Classification: Food Service Worker I
ACTION: RESCINDED PRIOR DISMISSAL - Case reopened at appellant's request.
- * CINDY CLOSSON, Case No. 98-3403
Classification: Correctional Officer
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.
- * JEANNE LAUFFER, Case No. 99-2360
Classification: Psychiatric Technician Trainee
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.
- * THOMAS MANNION, Case No. 99-2469
Classification: Caltrans Equipment Operator
ACTION: DISMISSED - Department withdrew action.
- * STEVEN PAS, Case No. 99-1788
Classification: Youth Correctional Officer
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.
- * ANTHONY SANCHEZ, Case No. 99-1828
Classification: Youth Correctional Officer
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.
- * DANIEL T. WHITE, Case No. 98 -5019
Classification: Painter I
ACTION: DISMISSED - Appellant withdrew appeal.

9. EXAMINATION APPEALS

On September 9, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Harrigan - Aye.

- A. CHARLES E. KIMBLE, Case No. 98-4331
Final Filing Date: April 3, 1998
Examination: Open Non-Promotional
Class: Genetic Disease Program
Specialist III and IV
Testing Agency: Department of Health Services
Appeal Received: October 24, 1998
ACTION: DENIED - the appeal for Genetic Disease Program Specialist III. GRANTED - the appeal for Genetic Disease Program Specialist IV, requiring the Department to administer a deferred examination to the appellant.
- B. DAVID JOHNSON, Case No. 98-3414
Final Filing Date: NO BULLETIN IN FOLDER
Examination: Scheduling Category Worksheet
Class: Correctional Officer
Testing Agency: Department of Corrections
Appeal Received: August 21, 1998
ACTION DENIED
- C. GROUP APPEAL, Case Nos. 98-4168, 4169, 4170
4171, 4172, 4175, 4176, 4177,
4178, 4179, 4180, 4181, 4192,
4193, 4194, 4195, 4196, 4197,
Final Filing Date: February 5, 1998
Examination: Promotional - Qualifications
Appraisal Panel Interviews
Class: Supervisor of Academic
Instruction
Testing Agency: Department of Corrections
Appeal Received: October 7, 1998
ACTION: GRANTED - No applicants from CCI applied to take the SAI (CF) examination, and other information supplied by appellants support their contention that the examination was not advertised at CCI.
- D. CYNTHIA A MUELLER. Case No. 98-0681
Final Filing Date: October 16, 1997
Examination: Performance Test
Class: Hearing Reporter
Testing Agency: Department of Industrial
Relations
Appeal Received: February 21, 1998

ACTION: GRANTED - The Appeals Division recommends providing Ms. Mueller an opportunity to participate in another Performance Test.

DISMISSAL

- * WALID MAKHLOUF, Case No. 98-4781
Classification: Water Resource Control Engineer
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.

10. MERIT ISSUE COMPLAINT APPEALS

On September 9, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Harrigan - Aye.

- A. TIMOTHY DUNN, Case No. 98-4585
Classification: Transportation Engineering Technician
ACTION: DENIED

DISMISSAL CASE

- * CLARK BENNETT, Case No. 99-1822
Classification: Career Executive Assignment
ACTION: DISMISSED - Appellant withdrew appeal.

11. RULE 212 OUT-OF-CLASS APPEALS

On September 9, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Harrigan - Aye.

DISMISSALS

- * JEAN MARIE BEAUCHAMP, Case No. 99-2846
Classification: Manager III/Department of Motor Vehicle
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.
- * IRMA FONG, Case No. 99-2845
Classification: Manager III/Department of Motor Vehicle
ACTION: DISMISSED - Appellant did not confirm appearance for scheduled hearing.

12. REQUEST TO FILE CHARGES CASES

On September 9, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Harrigan - Aye.

- A. PETITIONER: Mujahid Hussain, an employee of the California Department of Corrections.
Classification: Correctional Officer
ACTION: DENIED

13. NON-HEARING CALENDAR

On September 9, 1999, the Board adopted items A-E. These items were presented by Laura Aguilera, Chief, Personnel Resources and Innovation Division, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Harrigan - Aye.

- A. MACHINIST AND INSTRUMENT MAKER
MACHINIST AND EQUIPMENT FABRICATOR
SUPERVISOR OF TOOL AND INSTRUMENT SHOP
SUPERVISOR OF MACHINE SHOP
The Department of Transportation proposes to revise and retitle the classes of Machinist and Instrument Maker and Supervisor of Tool and Instrument Shop to Machinist and Equipment Fabricator and Supervisor of Machine Shop respectively.
- B. CALTRANS MAINTENANCE MANAGER SERIES
CALTRANS LANDSCAPE SPECIALIST
CALTRANS MAINTENANCE MANAGER I
CALTRANS LANDSCAPE PROGRAM ADMINISTRATOR
CALTRANS MAINTENANCE MANAGER II
The Department of Transportation is proposing to revise the Caltrans Maintenance Manager series specification to add the Caltrans Landscape Specialist class to the minimum qualifications of the Caltrans Maintenance Manager I class and the Caltrans Landscape Program Administrator class to the minimum qualifications of the Caltrans Maintenance Manager II class; correct and abolish class titles in the minimum qualifications; update language in the Knowledge and Abilities; and revise the Additional Desirable Qualifications.
- C. PENSION PROGRAM REPRESENTATIVE
SENIOR PENSION PROGRAM REPRESENTATIVE
PENSION PROGRAM ANALYST
ASSOCIATE PENSION PROGRAM ANALYST
PENSION PROGRAM SUPERVISOR
The State Teacher's Retirement System proposes establishment of a deep class titled Pension Program Representative with a 12-month probationary period and

establishment of Alternate Range Criteria 411; establishment of a class titled Senior Pension Program Representative with a 12-month probationary period; reallocation of incumbents to the new classes from the Program Technician classes; proposed establishment of a deep class titled Pension Program Analyst with a 12-month probationary period and establishment of Alternate Range Criteria 412; establishment of classes titled Associate Pension Program Analyst and Pension Program Supervisor; reallocation of incumbents to the new classes from the Retirement Program Specialist classes.

D. CONSUMER AFFAIRS REPRESENTATIVE

The California Public Utilities Commission proposes revisions to the Consumer Affairs Representative classification to establish a deep class and to reflect and update the definition, work performed and knowledge, skills and abilities required; to increase the probationary period from six months to one year; to establish Alternate Range Criteria #408.

E. COMMUNICATIONS OPERATOR, RESOURCES AGENCY SERIES

The Department of Mental Health proposes specification and title changes to the Communications Operator, Resources Agency class series; revision to Alternate Range Criteria 368; and abolishment of the Communications Operator, Resources Agency and Communications Supervisor, Resources Agency classes.

14. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following action:

A. CADET, CALIFORNIA HIGHWAY PATROL

The California Highway Patrol proposes to revise the specification for the Cadet, California Highway Patrol classification to modify the uncorrected vision standards for applicants who wear soft contact lenses.

ACTION: Noted

15. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. CEA POSITION ACTIONS CURRENTLY UNDER CONSIDERATION

(1) DEPUTY DIRECTOR, SPECIAL WASTE DIVISION

The California Integrated Waste Management Board proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Chief Deputy Director

and will develop and implement statewide policies and programs concerned with providing assistance to state and local governments and the general public in achieving management and diversion mandates for special wastes.

(2) DIRECTOR, DIVISION OF FIREARMS

The Department of Justice proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Chief Deputy Attorney General and will be responsible for setting policy, directing operational activities, advocating solutions and positions and implementing new programs and systems to regulate firearm purchasers, dealers, manufacturers, movie prop masters, firearm safety instructors, concealed weapon carriers, law enforcement, etc.

(3) ASSISTANT EXECUTIVE OFFICER, BOARD OF ARCHITECTURAL EXAMINERS

The Department of Consumer Affairs proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Executive Officer of the Board of Architectural Examiners and will plan, organize and direct the statewide activities of all program components of the Board and the Landscape Architect Technical Committee.

(4) CHIEF DEPUTY DIRECTOR

The California Children and Families First Commission proposes to allocate the above position to the CEA category. The Department indicates that this position will report to the Executive Director and will be directly involved in all management functions such as program planning; policy formulation to achieve the mission of the commission; organization coordination and control; and fiscal and personnel management.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. ETHEL WARREN, CASE NO. 98-2130. Appeal from dismissal.
Department of Corrections. (Oral argument held June 8, 1999.)

NO ACTION

2. JOSEPH P. CARLSON, CASE NO. 98-3904. Appeal from dismissal.
Department of Mental Health. (Oral argument held July 7, 1999.)

NO ACTION

3. EDWARD J. RANDLE, CASE NO. 98-0993. Appeal from 60 working days suspension. Department of Transportation. (Oral argument held August 3, 1999.)

ACTION: On September 9, 1999, adopted Board decision modifying penalty to 10 working days' suspension.

VOTE: Bos, Alvarado, Carpenter, Harrigan - Aye.

4. RALPH REY, CASE NO. 98-2752. Appeal from dismissal.
Department of Mental Health. (Oral argument held August 3, 1999.)

NO ACTION

5. MICHAEL JACKSON, CASE NO. 98-1818. Appeal from dismissal.
Department of Youth Authority. (Oral argument held August 3, 1999.)

NO ACTION

6. MICHAEL CARL, CASE NO. 98-4549. Appeal from 4 days suspension. Department of Corrections. (Oral argument held August 3, 1999.)

NO ACTION

7. ZELMA JOYCE MILAS, CASE NO. 98-3744. Appeal from automatic resignation. Employment Development Department. (Oral argument held August 3, 1999.)

ACTION: On September 9, 1999, adopted Board decision denying appeal from automatic resignation.

VOTE: Bos, Alvarado, Carpenter, Harrigan - Aye.

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on September 9, 1999.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Bos, Alvarado, Carpenter, Harrigan - Aye.